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**4. Equity (§ 460\*)—Bill of Review Should Specify Errors Relied on.**—A bill of review ought to specify with some degree of accuracy and definiteness the errors relied on.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 383.]

**5. Appeal and Error (§ 172 (1)\*)—Matters Not Mentioned in Bill of Review Not Considered.**—On appeal from the dismissal of a bill of review, an assignment of error as to a matter not mentioned in the bill will not be considered.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 383.]

**6. Equity (§ 464\*)—No Relief on Bill of Review unless Errors Clear.**—Where on bill of review, if the decree complained of should be reversed the parties could not be put in statu quo, the court will not grant relief unless the errors complained of are clear and have been specifically excepted to and pointed out in the original proceedings.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 383.]

**7. Equity (§ 445\*)—Infants May Impeach Decree Only on Same Ground as Adults.**—While Code 1919, § 6316 (Code 1904, § 3335), extends the time within which infants may file a bill of review, it does not authorize them to attack decrees upon any grounds except those which would be available to adults.

Appeal from Circuit Court, Washington County.

Bill of review by Marie Powers and another, by next friend, against D. H. Howard, trustee, and others. From a decree dismissing the bill on demurrer, complainants appeal. Affirmed.

*Oglesby & Burks*, of Roanoke, for appellants.

*Coleman & Carter*, of Big Stone Gap, for appellees.

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HINES, DIRECTOR GENERAL OF RAIL-  
ROADS, *v.* GARRETT.

Sept. 22, 1921.

[108 S. E. 690.]

**1. Appeal and Error (§ 994 (2)\*)—Truth of Testimony for Jury.**—In action by passenger wrongfully discharged beyond place of destination for damages for being raped while walking back, the court, on appeal from judgment for passenger, will not consider the questions of the passenger's veracity and the truth of her story as to being raped, but must treat the narrative as true; the veracity and the truth of her story being questions for the jury.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 619, 620.]

**2. Carriers (§ 276 (3)\*)—Evidence Held to Prove Rape of Passenger Discharged beyond Destination.**—In action by passenger wrongfully

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

discharged beyond place of destination for damages sustained in being raped while walking back, evidence held to sustain passenger's story as to the assault, notwithstanding failure to find assailants.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 671.]

**3. Carriers (§ 247 (4)\*)—Relationship of Carrier to Passenger Continues Until Passenger Reaches Destination or Voluntarily Departs at Other Point.**—The relationship and liability of a carrier to a passenger will ordinarily continue until the passenger has reached his destination, but may be terminated at some other point by the passenger's voluntary departure from the carrier's vehicle.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 671.]

**4. Carriers (§ 271\*)—Carrier's Duty in General as to Passenger Carried beyond Destination Stated.**—Generally carrier must stop train at station for which a passenger holds a ticket and must give passenger reasonable opportunity to disembark and must return passenger carried beyond destination to the station for which he holds a ticket, but is not required, in all cases, to run the particular train back to the station; the question of its duty to so do depending on the circumstances, including the distance the train has traveled before mistake is discovered.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 671.]

**5. Carriers (§ 278 (1)\*)—Whether Train Carrying Passenger beyond Destination Should Have Backed to Station Held for Jury.**—In action for being carried beyond destination, whether the train should have been backed to place of destination, on discovery of mistake less than a mile beyond the station, notwithstanding a railroad rule prohibiting movement against current of traffic without orders from superintendent of transportation, held for the jury.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 671.]

**6. Carriers (§ 278 (1)\*)—Whether Passenger Carried beyond Destination Voluntarily Left Train Held for the Jury.**—In action by 18 year old passenger carried a mile beyond destination for being raped while walking back, whether she voluntarily left the train and terminated the relationship of carrier and passenger held for the jury.

[Ed. Note.—For other cases; see 2 Va.-W. Va. Enc. Dig. 671.]

**7. Carriers (§ 271\*)—Not Liable for Rape of Passenger Walking Back After Having Voluntarily Left Train beyond Station.**—Eighteen year old passenger, who was an intelligent young woman, in business for herself, and accustomed to riding on trains, and who voluntarily left train after having been carried one mile beyond her station, could not recover from the railroad damages sustained in being raped while walking back to station, having voluntarily terminated her relationship as a passenger and having assumed the risk.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 671.]

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

**8 Carriers (§ 278 (1)\*)—Whether Rape upon Passenger Walking Back to Station Was Proximately Caused by Wrongful Ejection Held for Jury.**—In action against railroad by 18 year old passenger wrongfully discharged beyond her station, requiring her to walk back a distance of one mile along unprotected route known to have been infested by tramps, hoboes, and other disreputable characters, whether rape committed on her while walking back was proximately caused by the wrongful ejection from train held for the jury.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 671.]

**9. Carriers (§ 271\*)—Bound to Know Character of Place at Which It Wrongfully Discharges Passenger.**—A carrier, in the discharge of the high duty which it owes to its passengers, is bound to know the character of the place at which it wrongfully discharges them.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 671.]

**10. Carriers (§ 271\*)—Passenger Ejected from Train after Having Been Carried beyond Station Did Not Assume Risk of Walking Back.**—Eighteen year old girl carried beyond her station, who was, in effect, ejected from train, having been required to act hastily and without reasonable opportunity for deliberation, and who was raped while walking back to station, did not assume the risk of walking back.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 671.]

**11. Negligence (§ 62 (3)\*)—Exposing to Act by Third Person Causing Injury Actionable.**—The rule that no responsibility for a wrong attaches when an independent act of a third person intervenes between the negligence complained of and the injury does not apply where the very negligence alleged consists of exposing the injured party to the act causing the injury.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 349.]

**12. Carriers (§ 284 (2)\*)—Must Protect Passenger against Anticipated Danger.**—A carrier having reason to anticipate danger of an assault on a passenger must protect the passenger against such danger.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 671.]

**13. Appeal and Error (§ 1178 (6)\*)—Case Remanded for Determination of One Question Only Where on All Other Questions Parties Have Had a Fair Trial.**—Under Code 1919, § 6365, the appellate court in reversing judgment for failure to submit issue to jury, will remand the case merely for determination of such issue and not for a trial de novo, where the parties have had a fair trial upon all other questions.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 632.]

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Appeal from Circuit Court, Fairfax County.

Action by Julia Mae Garrett against Walker D. Hines, Director General of Railroads. Judgment for plaintiff, and defendant appeals. Reversed and remanded, with directions.

*C. Vernon Ford and Wilson M. Farr*, for appellant.

*Barbour, Keith, McClandlish & Garnett*, for appellee.

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ADDINGTON *v.* GUEST RIVER COAL CO.

Sept. 22, 1921.

[108 S. E. 695.]

**1. Trial (§ 139 (1\*))—Demurrer to Evidence Overruled if Reasonably Fair-Minded Men Might Have Differed.**—On demurrer to the evidence, the court must decide in favor of a demurree if the evidence is such that the jury might have found a verdict for him, or if reasonably fair-minded men might have differed.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 514.]

**2. Master and Servant (§ 236 (1\*))—Servant Must Protect Himself from Known Dangers.**—A servant must provide for his own safety from such dangers as are known to him, or which are discernible by ordinary care on his part.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 657.]

**3. Master and Servant (§ 154 (1\*))—Warning Necessary Only Where Servant Is Ignorant of Danger.**—The master is required to inform servant of dangers ordinarily incident to the service only where the danger is known, or ought to have been known, to the master, and is not known to and cannot reasonably be expected to be discovered by the exercise of ordinary care by the servant on account of youth or inexperience.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 657.]

**4. Master and Servant (§ 107 (5\*))—Rule Requiring Safe Place Inapplicable to Work Changing Character of Place.**—A master who employs a servant to engage in dangerous work must use ordinary and reasonable care to make the place of work as reasonably safe as the nature of the work permits, but such rule does not apply when the work consists in constantly changing the character of the place for safety as the work progresses.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 657.]

**5. Master and Servant (§ 217 (1\*))—Risk of Known Dangers Assumed.**—A servant assumes all ordinary risks of the service, and generally all risks from causes known to him, or readily discernible by a person of his age or capacity in the exercise of ordinary care.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 657.]

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.